

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 13-3058-CR-JFM
)
MATTHEW JOSEPH CERVETTI,)
)
Defendant.)
)

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

This matter comes before the Court on the issue of the defendant's competency to stand trial. On September 11, 2013, at the request of the defendant, the Court ordered a psychological evaluation. Lea Ann Preston Baecht, Ph.D, Forensic Psychologist at the United States Medical Center for Federal Prisoners, evaluated the defendant between October 8, 2013, and January 16, 2014. Her report was submitted to the Court on January 29, 2014. The undersigned held a hearing on February 25, 2014, on the question whether 1) defendant is competent to stand trial pursuant to 18 U.S.C. § 4241, and (2) at the time of the alleged offense, the defendant was able to appreciate the nature and quality of the wrongfulness of his acts, pursuant to 18 U.S.C. §4242. Defendant appeared in person with counsel. No evidence was presented, other than the report of Dr. Preston Baecht, which already appeared in the record.

After thorough evaluation, Dr. Preston Baecht opined that the defendant is competent to proceed. She continued,

[H]e is currently malingering symptoms of mental illness and he does not manifest a severe mental disease or defect that would impact his competency to proceed. He understands the nature and the potential consequences of the

proceedings against him and has the ability to assist properly in his defense if he chooses to do so. Given that Mr. Cervetti does not have a major mental disease or defect, it is anticipated that he will remain competent for the foreseeable future.

Regarding his mental state at the time of the alleged offense, Dr. Preston Baecht opined that Cervetti was criminally responsible for his actions at the time of the alleged offense and was able to appreciate the nature and quality or wrongfulness of his acts.

Based upon the opinion of Dr. Preston Baecht, which was the only evidence before the Court on the question of competency, the undersigned respectfully **RECOMMENDS** that Defendant Matthew Joseph Cervetti be declared competent to stand trial and be declared to have been capable of appreciating the nature and quality of the wrongfulness of his acts.

IT IS SO ORDERED.

DATED: February 28, 2014

/s/ *David P. Rush*
DAVID P. RUSH
United States Magistrate Judge